DETAILED ACTION

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 7/22/2009 has been entered. Claims 1-29 are cancelled. Claims 30-53 are pending.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of

35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35

U.S.C. 103(a).

2.   Claims 30-39 and 53 are rejected under 35 U.S.C. 103(a) as being

unpatentable over Herzberg et al. (EP 0717337 and Herzberg hereinafter) in

view of Holliman et al. (US Patent Publication No. 2002/0116533 and Holliman

hereinafter).

3.   As to claims 30, 35, 38 and 53, Herzberg teaches a computer-

implemented method of controlling playback of digital content by a playback

device, the method comprising:

receiving data including the digital content (i.e., …teaches receiving data

multimedia programs [800, fig. 8; col. 6, lines 46-52], first data processing

instructions (i.e., …teaches a first portion comprising the media content and

tables [col. 6, lines 46-52]), and second data processing instructions (i.e.,

signature token [col. 8, lines 5-15]), the first data processing instructions

corresponding to the digital content (i.e., …teaches a first portion comprising the

media content and tables [col. 6, lines 46-52]), the second data processing

instructions, when executed by a computer language interpreter of the playback

device, configuring the computer language interpreter to request an access to a

memory of the playback device [col. 16, lines 5-15];

and executing the first data processing instructions by using the computer

language interpreter, the first data processing instructions configuring the

computer language interpreter to (i.e., ...teaches when the multimedia title is to

be executed [col. 6, lines 40-60]):

obtain a cryptographic value (e.g., "so-obtained hash value reference") of

the second data processing instructions (i.e., .. teaches obtaining value for

comparison purposes [col. 9, lines 10-15]);

determine an authenticity of the second data processing instructions by

using the cryptographic value (i.e., ... teaches authenticity is determined by

comparison means [col. 9, lines 50-59]);

based on the authenticity, performing a first operation selected from a first

group consisting of: inhibiting playback of at least a portion of the digital content

(i.e., .. teaches based on a non-authenticated result halting processing (i.e.,

inhibit playing) [col..14, lines 20-25]), and enabling the access (e.g., allow data

reading) by the computer language interpreter (i.e., run time environment) to the

memory of the playback device during execution of the second data processing

instructions (i.e., .. teaches if successful then allow data reading from storage

means (e.g., memory, CD-ROM) [col. 14, lines 25-40]).

Herzberg does not explicitly teach applicant's computer language interpreter

claim limitation element. However at the time of applicant's original filing, the

feature of computer language interpreter used in a playback device environment

was well known and would have been an obvious modification of Herzberg as

disclosed by Holliman. Holliman discloses:

a computer language interpreter (to provide application support using

interpreter capability [par. 13]).

Therefore given Herzberg ability to control content playback, a person having

ordinary skill in the art would recognize the advantage of modifying Herzberg to

enable application support with the well known feature of a script language

interpreter (e.g., computer language interpreter) as disclosed by Holliman.

4.   As to claims 31 and 36, Herzberg teaches a computer-implemented

method of where the first data processing instructions, in configuring the

computer language interpreter to determine the authenticity, configure the

computer language interpreter to perform a second operation selected from a

second group consisting of:

        comparing the cryptographic value to a reference value stored in the

memory (i.e., … teaches authenticity is determined by comparison means [col. 9,

lines 50-59]), and verifying a digital signature corresponding to at least one of the

first data processing instructions or the second data processing instructions (i.e.,

… teaches verifying a digital signature [col. 14, lines 15-35]).

5.   As to claims 32 and 39, Herzberg teaches a computer-implemented

method of where the receiving of the data includes receiving at least some of the

data from a media drive or via a network [fig. 3].

6.   As to claim 33, Herzberg teaches a computer-implemented method further

comprising storing information in the memory, the information representing at

least one of: a payment referencing the digital content, a history of pay-per-view

payments, a counter value, a duration of access, a spending limit, a pricing

discount, a permission level, a privilege level, a security policy, a software update

of the playback device, third data processing instructions to obtain the software

update, a cryptographic key, or a digital signature (i.e., … teaches the use of

cryptographic key and digital signature [col. 13, lines 35-45]).

7.   As to claims 34 and 37, Herzberg teaches a computer-implemented

method of where the first data processing instructions, in configuring the

computer language interpreter (i.e., run time environment), to inhibit the

playback, configure the computer language interpreter (i.e., run time

environment) to perform a third operation selected from a third group consisting

of: preventing the playback, disabling a rendering of the portion of the digital

content, communicating an error message, communicating a first request to

receive authentication data, communicating a second request to initiate an

upgrade of the playback device, disabling a decryption of the portion of the digital

content, and restricting the playback to a reduced quality level less than a

maximum quality level of the digital content (i.e., .. .teaches rendering no

notification [col. 15, lines 39-41]).

Herzberg does not explicitly teach applicant's computer language interpreter

claim limitation element. However at the time of applicant's original filing, the

feature of a computer language interpreter used in a playback device

environment was well known and would have been an obvious modification of

Herzberg as disclosed by Holliman. Holliman discloses:

> a computer language interpreter (to provide application support using
> interpreter capability [par. 13]).

Therefore given Herzberg ability to control content playback, a person having

ordinary skill in the art would recognize the advantage of modifying Herzberg to

enable application support with the well known feature of a script language

interpreter (e.g., computer language interpreter) as disclosed by Holliman.

8.   Claims 40-52 are rejected under 35 U.S.C. 103(a) as being unpatentable

over Kocher et al. (US Patent No. 6,289, 455 and Kocher hereinafter) in view of

Holliman.

9.   As to claims 40 and 51, Kocher teaches an apparatus comprising: a media

interface to receive digital content and first data processing instructions (i.e.,

…teaches playback devices receives content [col. 9, lines 15-20]), the first data

processing instructions corresponding to the digital content [col. 9, lines 15-20];

> determine a security risk (e.g., audit process) of the apparatus (i.e., ..

teaches accessing security [col. 12, lines 15-25]);

identify second data processing instructions as a software

countermeasure associated with the security risk, the identifying being based on

the security risk [col. 11, lines 30-40];

and initiate an execution of the second data processing instructions on the

apparatus [col. 4, lines 14-20].

Kocher does not expressly teach applicant's computer language interpreter claim

limitation element. However at the time of applicant's original filing, the feature of

a computer language interpreter used in a playback device environment was well

known and would have been an obvious modification of Kocher as disclosed by

Holliman. Holliman discloses:

a computer language interpreter communicatively coupled to the media

interface, the computer language interpreter to execute the first data processing

instructions, the first data processing instructions configuring the computer

language interpreter (to provide application support using interpreter capability

[par. 13]).

Therefore given Kocher ability to assess security in a playback environment, a

person having ordinary skill in the art would recognize the advantage of

modifying Kocher to enable application support with the well known feature of a

script language interpreter (e.g., computer language interpreter) as disclosed by

Holliman.

10.   As to claim 41, Kocher teaches a computer-implemented method where

the second data processing instructions include a specific instruction encoded as

native code of the playback device (i.e., ... teaches receiving code updates

[col.24, lines 50-65]).

11.   As to claim 42, Kocher teaches a computer-implemented method of where

the first data processing instructions, configure the computer language interpreter

to determine an authenticity of the second data processing instructions [520, fig.

5].

Kocher does not explicitly teach applicant's computer language interpreter claim

limitation element. However at the time of applicant's original filing, the feature of

a computer language interpreter used in a playback device environment was well

known and would have been an obvious modification of Kocher as disclosed by

Holliman. Holliman discloses:

        a computer language interpreter (to provide application support using

interpreter capability [par. 13]).

Therefore given Kocher's ability to assess security in a playback environment, a

person having ordinary skill in the art would recognize the advantage of

modifying Kocher to enable application support with the well known feature of a

script language interpreter (e.g., computer language interpreter) as disclosed by

Holliman.

12.   As to claim 43, Kocher teaches a computer-implemented method of where

the first data processing instructions, in configuring the computer language

interpreter (i.e., playback device) to determine (e.g., audit process) the security

risk, configure the computer language interpreter to detect a presence of

unauthorized software on the playback device (i.e., … teaches an audit process

for determining risk related issues such as unauthorized code [col. 12, lines 15-

25]).

Kocher does not explicitly teach applicant's computer language interpreter claim

limitation element. However at the time of applicant's original filing, the feature of

a computer language interpreter used in a playback device environment was well

known and would have been obvious modification of Kocher as disclosed by

Holliman. Holliman discloses:

        a computer language interpreter (to provide application support using

interpreter capability [par. 13]).

Therefore given Kocher's ability to assess security in a playback environment, a

person having ordinary skill in the art would recognize the advantage of

modifying Kocher to enable application support with the well known feature of a

script language interpreter (e.g., computer language interpreter) as disclosed by

Holliman.

13.   As to claim 44, Kocher teaches a computer-implemented method of where

the first data processing instructions, configure the computer language interpreter

(i.e., playback device) to initiate a reception of at least some of the second data

processing instructions from a media drive or via a network (i.e., … teaches

reception via network [col. 9, lines 10-15[).

Kocher does not explicitly teach applicant's computer language interpreter claim

limitation element. However at the time of applicant's original filing, the feature of

a computer language interpreter used in a playback device environment was well

known and would have been an obvious modification of Kocher as disclosed by

Holliman. Holliman discloses:

        a computer language interpreter (to provide application support using

interpreter capability [par. 13]).

Therefore given Kocher's ability to assess security in a playback environment, a

person having ordinary skill in the art would recognize the advantage of

modifying Kocher to enable application support with the well known feature of a

script language interpreter (e.g., computer language interpreter) as disclosed by

Holliman.

14.   As to claim 45, Kocher teaches a computer-implemented method where

the second data processing instructions, when executed on the playback device

[col. 9, lines 15-20], configure the playback device to modify at least some of the

digital content with a forensic mark (e.g., control message) [col. 9, lines 20-21]).

15.   As to claims 46 and 52, Kocher teaches a optical medium comprising:

digital content [col. 8, lines 20-30];

and first data processing instructions corresponding to the digital content

(i.e., … teaches receiving digital content [col. 9, lines 15-20]), the first data

processing instructions (e.g., code), when executed by a computer language

interpreter of a playback device (i.e., … teaches receiving code updates [col.24,

lines 50-65]), configuring the computer language interpreter to:

determine a security risk (e.g., audit process) of the apparatus (i.e., ..

teaches accessing security [col. 12, lines 15-25]);

identify second data processing instructions as a software

countermeasure associated with the security risk, the identifying being based on

the security risk [col. 11, lines 30-40];

and initiate an execution of the second data processing instructions on the

apparatus [col. 4, lines 14-20].

Kocher does not explicitly teach applicant's computer language interpreter claim

limitation element. However at the time of applicant's original filing, the feature of

a computer language interpreter used in a playback device environment was well

known and would have been an obvious modification of Kocher as disclosed by

Holliman. Holliman discloses:

a computer language interpreter (to provide application support using

interpreter capability [par. 13]).

Therefore given Kocher's ability to assess security in a playback environment, a

person having ordinary skill in the art would recognize the advantage of

modifying Kocher to enable application support with the well known feature of a

script language interpreter (e.g., computer language interpreter) as disclosed by

Holliman.

16.   As to claim 47, Kocher teaches a optical medium where the second data

processing instructions include a specific instruction encoded as native code of

the playback device (i.e., ... teaches receiving code updates [col.24, lines 50-

65]).

17.   As to claim 48, Kocher teaches a optical medium where the first data

processing instructions, when executed by the computer language interpreter

(i.e., playback device), configure the computer language interpreter to determine

an authenticity of the second data processing instructions [520, fig. 5].

Kocher does not explicitly teach applicant's computer language interpreter claim

limitation element. However at the time of applicant's original filing, the feature of

a computer language interpreter used in a playback device environment was well

known and would have been an obvious modification of Kocher as disclosed by

Holliman. Holliman discloses:

a computer language interpreter (to provide application support using

interpreter capability [par. 13]).

Therefore given Kocher's ability to assess security in a playback environment, a

person having ordinary skill in the art would recognize the advantage of

modifying Kocher to enable application support with the well known feature of a

script language interpreter (e.g., computer language interpreter) as disclosed by

Holliman.

18.   As to claim 49, Kocher teaches a optical medium where the first data

processing instructions, in configuring the computer language interpreter (i.e.,

playback device) to determine (e.g., audit process) the security risk, configure the

computer language interpreter to detect a presence of unauthorized software on

the playback device (i.e., … teaches an audit process for determining risk related

issues such as unauthorized code [col. 12, lines 15-25]).

Kocher does not explicitly teach applicant's computer language interpreter claim

limitation element. However at the time of applicant's original filing, the feature of

a computer language interpreter used in a playback device environment was well

known and would have been an obvious modification of Kocher as disclosed by

Holliman. Holliman discloses:

a computer language interpreter (to provide application support using

interpreter capability [par. 13]).

Therefore given Kocher's ability to assess security in a playback environment, a

person having ordinary skill in the art would recognize the advantage of

modifying Kocher to enable application support with the well known features of a

script language interpreter (e.g., computer language interpreter) as disclosed by

Holliman.

19.   As to claim 50, Kocher teaches a optical medium where the second data

processing instructions, when executed on the playback device [col. 9, lines 15-

20], configure the playback device to modify at least some of the digital content

with a forensic mark (e.g., control message) [col. 9, lines 20-21]).

Response to Arguments

Applicant's arguments with respect to claims 30-53 have been considered

but are moot in view of the new ground(s) of rejection.

Contact Information

Any inquiry concerning this communication or earlier communications from

the examiner should be directed to BRYAN WRIGHT whose telephone number is

(571)270-3826. The examiner can normally be reached on 8:30 am - 5:30 pm

Monday -Friday.

If attempts to reach the examiner by telephone are unsuccessful, the

examiner's supervisor, William Korzuch can be reached on (571) 272-7589. The

fax phone number for the organization where this application or proceeding is

assigned is 571-273-8300.

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/BRYAN WRIGHT/
Examiner, Art Unit 2431

/William R. Korzuch/
Supervisory Patent Examiner, Art Unit 2431